

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VARDELL SMALLS,

Petitioner,

-against-

NEW YORK STATE PAROLE; NEW
YORK STATE COURT; NEW YORK CITY
DEP'T OF CORR.; WARDEN OF V.C.B.C.,

Respondents.

18-CV-12282 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

By order dated April 2, 2019, the Court directed Petitioner to file an amended petition within sixty days. That order specified that failure to comply would result in the denial of the petition. Petitioner has not filed an amended petition. Accordingly, the petition is denied for lack of exhaustion. Petitioner may file a new petition once he has exhausted his state-court remedies.

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket. Because the petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue under 28 U.S.C. § 2253.

The Clerk of Court is also directed to docket this as a “written opinion” within the meaning of Section 205(a)(5) of the E-Government Act of 2002.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an

appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 12, 2019
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge